



State of Vermont
Agency of Human Services
280 State Drive, Center Building
Waterbury, VT 05671-1000

Global Commitment Register

October 20, 2017

GCR 17-043 through 17-049
FINAL PROPOSED

Health Benefits Eligibility and Enrollment Rules Updates

Policy Summary:

The Agency of Human Services (AHS) has filed final proposed rules with the Office of the Secretary of State (SOS) and the Legislative Committee on Administrative Rules (LCAR), to amend the following rules, referenced as Health Benefits Eligibility and Enrollment (HBEE):

- GCR 17-043: HBEE Part 1 – General Provisions and Definitions
- GCR 17-044: HBEE Part 2 – Eligibility Standards
- GCR 17-045: HBEE Part 3 – Nonfinancial Eligibility Requirements
- GCR 17-046: HBEE Part 4 – Special Rules for Medicaid Coverage of Long-Term Care Services and Supports – Eligibility and Post-Eligibility
- GCR 17-047: HBEE Part 5 – Financial Methodologies
- GCR 17-048: HBEE Part 7 – Eligibility and Enrollment Procedures
- GCR 17-049: HBEE Part 8 – Fair Hearings and Expedited Administrative Appeals

The final proposed rules are not in effect, but if adopted following the full rulemaking process, will supersede HBEE that went into effect on January 15, 2017. These final proposed rules are expected to be presented to LCAR for review and approval on November 9, 2017 (subject to change by LCAR). The LCAR meeting schedule can be [viewed here](#). Additional information, including a link to the final proposed rules, is available below.

HBEE is made up of eight separate rules that provide the eligibility standards for Medicaid, Qualified Health Plans, and other health care programs. Current rulemaking involves the seven rules listed above.

This final proposed rulemaking is necessary to align HBEE, Parts 1-5 and 7-8, with federal law and guidance and state law, provide clarification, correct information, improve clarity, and make technical corrections.

Substantive revisions include modification of the eligibility criteria for the Medicaid for Working People with Disabilities (MWPD) program in response to 2015 Acts and Resolves No. 51, Sec. C.9. to the extent permitted by the Centers for Medicare and Medicaid Services (CMS) (HBEE

Part 2), modification of the exclusion requirements for special needs trusts in response to changes in trust policy as a result of the 21st Century Cures Act (HBEE Part 5), reorganization of the special enrollment period rule and addition of pregnancy as a qualifying event pursuant to state law (HBEE Part 7), and expansion of the availability of expedited appeals (HBEE Part 8).

Effective Date:

This rule will go into effect after receiving approval from the Legislative Committee on Administrative Rule (LCAR) and upon submitting the adopted rules with the Office of the Secretary of State.

Authority/Legal Basis:

Medicaid: C.F.R., Title 42, Chapter IV, Subchapter C, Part 435

Health Benefits Exchange: C.F.R., Title 45, Subtitle A, Subchapter B, Part 155

Adopting and rulemaking: 3 V.S.A. §§ 801(b) (11), 838, 3052, 3053; 33 V.S.A. §§ 105, 1901

Population Affected:

Medicaid and Qualified Health Plan applicants and enrollees.

Fiscal Impact:

Changes to HBEE Part 2 that enhance income and resource exclusions for Medicaid for Working People with Disabilities (MWPDP) eligibility will have an estimated gross annualized budget impact of \$574,000. AHS anticipates no other economic impact to the State in fiscal years 2017-2018 as a result of these changes to HBEE.

Public Comment Period:

The public comment period on this rule closed on September 12, 2017. Comments received, responsiveness summary, and summary of changes can be viewed here:

1. [Comments Received](#)
2. [Responsiveness Summary](#)
3. [Summary of Changes](#)

Additional Information:

The final proposed rules can be viewed on the [HBEE proposed rules webpage](#) available here. This website has annotated and non-annotated versions of HBEE Part 1, 2, 3, 4, 5, 7, and 8.

The Office of the Secretary of State references the rules on its website as follows:

- HBEE Part 1 – Number 17P021
- HBEE Part 2 – Number 17P022
- HBEE Part 3 – Number 17P023
- HBEE Part 4 – Number 17P024
- HBEE Part 5 – Number 17P025
- HBEE Part 7 – Number 17P026
- HBEE Part 8 – Number 17P027

The Office of the Secretary of State posting can be viewed electronically at:

<https://secure.vermont.gov/SOS/rules/>.

To get more information about the rulemaking process, see the website of the Office of the Secretary of State at <https://www.sec.state.vt.us/administrative-rules.aspx>.

The [HBEE adopted rules](#) that are currently in effect are available here.